

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
DONALD LEE BURK,;)	
)	
Defendant.)	No. 2:10-cv-02108-JPM-dkv
)	

**ORDER ADOPTING REPORT AND RECOMMENDATION AND ORDER DENYING
PLAINTIFF'S MOTION TO VACATE SENTENCE FOR INEFFECTIVE ASSISTANCE
OF COUNSEL**

Pending before the Court is the Report and Recommendation of Magistrate Judge Diane K. Vescovo, submitted August 16, 2011 (Docket Entry ("D.E.") 34), recommending that the Court deny Plaintiff's Motion to Vacate Sentence for Ineffective Assistance of Counsel as to Plaintiff's claim that: (1) defense counsel operated under an actual conflict of interest; and (2) defendant was deprived of his right to appeal (D.E. 1). No objections to the Report and Recommendation have been filed, and the time for filing objections has expired.

Upon de novo review of the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation in its entirety, and DENIES Plaintiff's Motion to Vacate

Sentence for Ineffective Assistance of Counsel based on (1)
conflict of interest and (2) failure to file an appeal.

So ORDERED this 28th day of September, 2011.

/s/ JON PHIPPS McCALLA
CHIEF UNITED STATES DISTRICT JUDGE